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REC'D TN
REGULATORY AUTH.

SEP 21 PM 2:00

OFFICE OF THE
EXECUTIVE SECRETARY

ID#

128643

September 21, 2000

VIA HAND DELIVERY

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

00-00823

**Re: Tennessee Telecommunications Association
Petition for Exemption of Voice Messaging Service from Regulation**

Dear Mr. Waddell:

Please find enclosed the original and 13 copies of the Petition of the Tennessee Telecommunications Association for Exemption of Voice Messaging Service from Regulation. In addition, to satisfy the filing fee, you will find a check made payable to the Tennessee Regulatory Authority in the amount of \$25.00.

Please acknowledge receipt of this filing by stamping the enclosed extra copy of the Petition, and returning it to our runner.

Should you have any questions with respect to the enclosed Petition, please do not hesitate to contact me at (615) 742-6244.

Very truly yours,

R. Dale Grimes

R. Dale Grimes

Enclosures

cc: Ellen Bryson (w/ enclosures)

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TTA
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**BEFORE THE
TENNESSEE REGULATORY AUTHORITY**

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IN RE: PETITION BY THE)
TENNESSEE TELECOMMUNICATIONS)
ASSOCIATION TO EXEMPT VOICE)
MESSAGING FROM REGULATION)

OFFICE OF THE
EXECUTIVE SECRETARY
Docket No. 00-00823

**PETITION FOR EXEMPTION OF VOICE MESSAGING
SERVICE FROM REGULATION**

The Tennessee Telecommunications Association (the "TTA") respectfully submits this Petition for an exemption of voice messaging service from regulation, as follows:

INTRODUCTION

1. The TTA is a not-for-profit Tennessee corporation with its principal place of business in Nashville, Tennessee. It is a trade association, the membership of which is open to all telecommunications providers certificated to operate in Tennessee.

2. The TTA, with the unanimous support of its members, seeks an exemption of voice messaging service from regulation, pursuant to Section 65-5-208(b) of the Tennessee Code Annotated (the "T.C.A.").

3. T.C.A § 65-5-208(b), as enacted by Chapter 408 of the Public Acts of 1995, requires the Tennessee Regulatory Authority to exempt from regulation "a telecommunications service for which existing and potential competition is an effective regulator of the price of those services." The exemption requested in this Petition is

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appropriate under that definition because the level of “. . . existing and potential competition is an effective regulator of the price . . .” In short, the voice messaging service clearly is a competitive service appropriately regulated by the marketplace in Tennessee. Therefore, it is no longer appropriate to treat it as a regulated service.

REASONS SUPPORTING EXEMPTION FROM REGULATION

4. Market information relating to voice messaging services demonstrates that voice messaging is a highly competitive and diverse market from both a residential/small business and large business perspective. Indeed, TTA member companies face heavy competition for their voice messaging services from a host of unregulated competitors including terminal equipment vendors, answering machine retailers, voice mail service providers, wireless carriers, the Internet and answering services.

RESIDENTIAL/SMALL BUSINESS COMPETITION

5. Vigorous competition for residential and small business customers currently exists from increasingly sophisticated and attractively priced digital answering machines available across the state at retail outlets such as Wal-Mart and Kmart. The most basic, inexpensive answering machine provides a method of answering calls and recording messages, turning on a light to indicate messages have been received and allowing call screening. Many models also provide date and time stamping, multiple mailboxes for family members and business associates, pager notification, and interaction with Caller ID service to provide personal greetings. These answering machines compete directly against the voice messaging services provided by TTA member companies.

INTERNET AND WIRELESS SERVICES

6. In addition, the explosion of the Internet and wireless communications is creating competition that was unheard of just a few years ago. Consumers are now able to easily retrieve voice mail messages via the Internet and often receive this service free of charge in connection with promotions offered by the Internet service providers. Consumers are also increasingly relying on wireless services which include voice mail as part of the consumers basic monthly service package.

LARGE BUSINESS COMPETITION

7. Vigorous competition for large business customers exists from voice processing equipment connected to a business's telephone system, usually in the form of a Key System or PBX. Key and PBX manufacturers offer voice processing equipment specifically designed to complement and interact with their systems, allowing businesses to provide their own voice messaging solution and to resell the services to others. Software is also readily available to turn a home or business personal computer into a powerful voice mail system.

VOICE MAIL SERVICE PROVIDERS

8. Voice mail service providers are also competing in the marketplace, offering voice mail exclusively or as a complementary service to other methods of communication such as paging and cellular service. The hardware and software equipment used to provide voice mail is widely available in the marketplace and can be connected to the public switched network by any entity desiring to enter the market.

Connections to the local exchange carrier are accomplished by purchasing lines and other services at established tariffed rates. Voice mail services provided in this manner are already provisioned throughout the state. Companies such as Ameritel and FTT are offering voice mail in rural counties such as Humphreys County. NewSouth is providing voice mail services in Clarksville as well as in more metropolitan areas. These local competitors are in addition to nationally recognized service providers such as AT&T, GTE, PageNet, and Amway.

ANSWERING SERVICES

9. Companies providing answering services compete in the marketplace as well. Answering services are staffed by live operators, usually 24 hours a day, who not only answer calls and take messages, but also forward calls to their clients. Telephone yellow pages are replete with such companies providing these answering services.

CONCLUSION

10. T.C.A. § 65-5-208(b) requires the Authority to exempt from regulation a service for which existing and potential competition is an effective regulator of the price of that service. As shown above, both residential and business subscribers currently have a great number of choices to fill their voice messaging needs. In short, voice messaging is a clearly competitive service. As a result, consumers have great leverage when shopping for voice messaging products and services. Consumers can look to the marketplace to find the best product within a price range and can take their business to a competing product or provider should they become dissatisfied with the quality of the

product or service that they purchase. Within the context of this vigorously competitive environment, T.C.A. § 65-5-208(b) requires the Authority to deregulate voice messaging. Finally, it is patently unfair for regulated TTA member companies to compete against terminal equipment vendors, answering machine retailers, voice mail service providers, wireless carriers, the Internet or answering services — none of which are regulated.

WHEREFORE, with the unanimous support of its membership, the TTA respectfully petitions the Authority, after notice and opportunity for hearing, to order that voice messaging services are exempt from regulation as provided for in T.C.A. § 65-5-208(b).

Respectfully submitted,



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*Attorneys for Tennessee Telecommunications
Association*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served by U. S. Mail, first-class postage pre-paid, this the 21 day of September, 2000, upon the following:

Richard Collier, Esq.
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

L. Vincent Williams, Esq.
Consumer Advocate Division
Office of the Attorney General
Cordell Hull Building, 2nd Floor
425 Fifth Avenue, North
Nashville, Tennessee 37243-0500.



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